IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 149 of 1987

to

FIRST APPEALNo 167 of 1987

and

FIRST APPEAL NO 282 TO 289 OF 1987

and

FIRST APPEAL NO 349 TO 350 OF 1987

and

FIRST APPEAL NO 2301 TO 2326 OF 1987

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS
and
Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : YES

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BAVAMIYA ACHHUMIYA

Versus

SPECIAL LAND ACQUISITION OFFICER

Appearance:

MR NITIN M AMIN for Petitioner No. 1

MR. A.D. OZA, GOVERNMENT PLEADER for Respondent No. 1

CORAM : MR.JUSTICE KSHITIJ R.VYAS

and

MR.JUSTICE H.K.RATHOD

Date of decision: 23/10/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE H.K.RATHOD)

Heard learned advocate Mr.Nitin Amin for the appellants and Mr. A.D. Oza, learned Government Pleader for the respondents in this group of appeals. This group of appeals is arising in respect of the lands acquired by the State Government relating to village Bavla, Kalyangadh and Vithalpur.

Brief facts of the first appeal nos. 149 of 1987 to 167 of 1987 relating to village Bavla are as under:

After the formation of the State of Gujarat, the developments in all parts of the State needed attention. SO far as the development in and around Bavla was concerned, the Executive Engineer, Panchayat Section, Ahmedabad was assigned the work to study the needs in the Taluka and recommended where and what type of roads were necessary. After careful study, the Executive Engineer, Panchayat Section, Ahmedabad planned out a scheme for constructing Bavla Rupal Begava Koth Road and also pointed out in his scheme that for the purpose of constructing that road, barely required for the developments, the lands were required to be acquired. He reported to his higher authorities through the collector. The Collector, Ahmedabad approved the same and recommended the Government to approve and issue necessary notification for acquisition of the agricultural lands. The Govt. accepted the recommendations and issued notifications for the acquisition of the lands. The agricultural lands of the claimants situated within the sim of the town Bavla were included in acquisition operation. Accordingly, notification u/s. 4 of the Land Acquisition Act dated 26.4.1976 was published in the Government Gazette on 10.6.1976. Thereafter, necessary

formalities were observed and again a notification under section 6 of the said Act dated 5.5.1977 was published in the Government Gazette on 9.6.1977. Thereafter, the Special Land Acquisition Officer took up the work of hearing the proceedings of acquisition on hand, summoning all the interested persons. As regards the lands of the present claimants was concerned, land acquisition case no.2 of 1973 was initiated and heard by the Special Land Acquisition Officer.The Special Land Acquisition Officer, after hearing all the interested in the lands, declared his award on 4.3.1983 awarding the compensation at the rate of Rs.1.00 per sq. mtr. The lands were Jarayat lands. Some of the lands were new tenure while some were old tenure lands. The claimants were demanding compensation at the rate of Rs.30.00 per sq. mtr. Therefore, the claimants then decided to prefer references and, therefore, at the instance of the original claimants, the Special Land Acquisition Officer made references of these 19 cases to the District court at Narol which were, in turn, transferred to the Extra Assistant Judge, Ahmedabad Rural at Narol being Land Acquisition Case No. 138 of 1984 to 155 of 1984 and land acquisition case no. 212 of 1984. The reference court decided the said references on 30.12.1985 and partly allowed the references and awarded additional compensation to the claimants over and above the amounts awarded by the Special Land Acquisition Officer together with interest at the rate of 9 per cent per annum from the date of possession till realization with proportionate costs. In the said award, the reference court has not granted solatium at the rate of 30 per cent to the claimants; not granted 12 per cent increase and also not granted 15 per cent interest under proviso to amended section 28 of the Land Acquisition Act.

The facts relating to the first appeal no. 282 of 1987 to 289 of 1987 in respect of village Kalyangadh are as under:

After the formation of the State of Gujarat, the developments in all parts of the State needed attention. SO far as the development in and around Dholka was concerned, the Executive Engineer, Panchayat Section, Ahmedabad was assigned the work to study the needs in the Taluka and recommended where and what type of roads were necessary. After careful study, the Executive Engineer, Panchayat Section, Ahmedabad planned out a scheme for constructing Bagdana-Lagdana-Kalyangadh Road and also pointed out in his scheme that for the purpose of constructing that road, barely required for the

developments, the lands were required to be acquired. He reported to his higher authorities through the Collector. The Collector, Ahmedabad approved the same and recommended the Government to approve and issue necessary notification for acquisition of the agricultural lands. The Govt. accepted the recommendations and issued notifications for the acquisition of the lands. The agricultural lands of the claimants situated within the sim of the town Kalyangadh were included in acquisition operation. Accordingly, notification u/s. 4 of the Land Acquisition Act dated 4.11.1976 was issued and thereafter, necessary formalities were observed and again another notification dated 4.6.1977 under section 6 of the Land Acquisition Act was issued and published on 28.7.1977. Thereafter, the Special Land Acquisition Officer took up the work of hearing the proceedings of acquisition on hand, summoning all the interested persons. As regards the lands of the present claimants was concerned, land acquisition case no.16 of 1973 was initiated and heard by the Special Land Acquisition Officer.The Special Land Acquisition Officer, after hearing all the interested in the lands, declared his award on 12.3.1983 awarding the compensation at the rate of Rs.0.20 per sq. mtr. The lands were Jarayat lands. Some of the lands were new tenure while some were old tenure lands. The claimants were demanding compensation at the rate of Rs.10.00 per sq. mtr. Therefore, the claimants then decided to prefer references and, therefore, at the instance of the original claimants, the Special Land Acquisition Officer made references of these 8 cases to the Reference Court wherein the reference court decided the said references on 20.1.1986 and partly allowed the references and awarded additional compensation to the claimants at the rate of Rs.5.00 per sq. mtrs. over and above the amounts awarded by the Special Land Acquisition Officer together with interest at the rate of 9 per cent per annum from the date of possession till realization with proportionate costs. In the said award, the reference court has not granted solatium at the rate of 30 per cent to the claimants; not granted 12 per cent increase and also not granted 15 per cent interest under proviso to amended section 28 of the Land Acquisition Act.

The facts relating to first appeal no. 349 and 350 of 1987 in respect of village Sarkhej are as under:

The Deputy Engineer, Vasna Irrigation Research Sub Division, during his study found that Fatehwadi

Feeder Canal for the purpose of irrigating the agricultural lands and thereby to be in the tune with grow more food policy was necessary and, therefore, he made out a case for the scheme and under that scheme, he recommended to acquire necessary lands. The Government, after carefully studying the report of the Engineer, approved the same and thereafter, acquisition proceedings were initiated. The claimants in these two appeals were having their agricultural lands bearing block no. 594 and 593. Their lands were acquired soon after the scheme was approved and it was decided to acquire the lands and notification under sec.4 of the Land Acquisition was issued and published in the Government Gazette on 25.10.1979. Thereafter, notification under section 6 was issued and published in the Government Gazette on 27.5.1982. Thereafter, the Special Land Acquisition Officer took the proceedings of acquisition on hand and summoned all interested in the lands and after hearing the claimants, he awarded the compensation at the rate of Rs.1.15 ps. per sq. mtr. by his award dated 6.9.1983. Since the claimants were not satisfied with the award made by the Special Land Acquisition Officer, at their instance, the Special Land Acquisition Officer made the reference before the Reference Court under section 18 of the Act wherein the reference court awarded additional compensation of Rs.12.00 per square meter vide its award dated 30.10.1985 with interest thereon at the rate of 9 per cent per annum. Under its award, the reference court has not granted solatium at the rate of 30 per cent to the claimants; not granted 12 per cent increase and also not granted 15 per cent interest under proviso to amended section 28 of the Land Acquisition Act.

Brief facts of the first appeal no. 2301 to 2326 of 1987 relating to village Vithalpur are as under:

The lands in question were acquired for the public purpose for Suraj - Dahesar-Odhav-Solgaon-Mandal Drain. All these lands are situated near to each other at Village Vithalpur in Viramgam Taluka. The claimants have claimed compensation at the rate of Rs.5.00 per sq. mtrs. The Land Acquisition Officer has complied with all the requirements prescribed under the law after initiating the acquisition proceedings against the claimants. He has given notices to the claimants and interested persons and called upon them by serving notices. The Land Acquisition Officer has awarded the compensation at the rate of Rs.00.35 ps. per sq. mtr. by his award dated 9.2.1984. Notification under section 4 of the Act was published on 3.6.1982. Notification

under section 6 of the Act was published on 19.5.1983. Since the claimants were not satisfied with the amount of compensation awarded by the Land Acquisition Officer, the Land Acquisition Officer made reference before the Reference Court under sec. 18 of the Act wherein the reference court, under its award dated 12.4.1985, awarded additional compensation to the claimants at the rate of Rs.4.40 ps. with interest at the rate of 6 per cent per annum. On the amount of additional compensation, solatium at the rate of 30 per cent has been granted and 9 per cent interest from the date of taking over the possession was also granted till the amount is paid or deposited. However, the reference court has not granted 12 per cent increase in the market price and 15 per cent interest.

Learned advocate Mr.Nitin Amin appearing for the appellants original claimants has raised contention before this court in light of the Amendment made in the Land Acquisition Act, 1894 by Act 68 of 1984. He has submitted that because of the said amendment made in the Act of 1894, the claimants are entitled to certain statutory legal benefits but the same have been denied by the reference court. He has submitted that according to the said amendment made by Act 68 of 1984, the claimants are entitled for 30 per cent solatium on the total amount of compensation under section 23(2) of the Land Acquisition Act. He has also submitted that the claimants are also entitled to have 12 per cent increase on the market price under section 23(1-A) of the Act and as per the proviso to section 28 of the Act, after the expiry of one year period, the claimants are entitled to 15 per cent interest upon the total amount of compensation including the amount of solatium. He has also submitted that the amendment made in the Statute is having effect from 24th September, 1984 but under the amended section 30, transitional provisions have been made by the statutory amendment and as per section 30(2) of the Act, provisions of sub section (2) of section 23 and section 28 of the Principal Act as amended by clause (b) of section 15 and section 18 of this Act respectively shall apply and shall be deemed to have applied also to and in relation to, any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any such award under the provisions of the Principal Act after the 30th day of April, 1982 which is the date of introduction of the Land Acquisition (Amendment) Bill, 1982 in the House of the People and before the commencement of this Act. He has submitted that two dates are relevant. One is 30th April,1982 and the other is 24th September, 1984. He has

submitted that in view of this amendment, in these appeals, the land acquisition officer has passed the award on 4th March,1983, 12th March, 1983, 6th September, 1983 and 9th February, 1984, meaning thereby, subsequent to 30th April, 1982 and, therefore, in all these cases, the claimants are entitled to the benefits of the amended provisions of the Act. He has also submitted that the reference court has decided the said references in December, 1985, 20th January, 1986 and 30th October, 1985 and 12th April, 1985, meaning thereby, subsequent to the implementation of the amended provisions of the Land Acquisition Act and, therefore, according to him, the claimants in these appeals ought to have been given such benefits by the reference court. He has relied upon the decision of the apex court in case of Union of India versus Raghuvir Singh reported in AIR 1989 SC 1933 and the recent decision of the apex court in case of Sundar versus Union of India reported in 2001(3) GLH 446.

On the other hand, learned Government Pleader Mr. A.D. Oza appearing for the respondents has submitted that the reference court has not granted or awarded any solatium and other statutory benefits to the claimants and, therefore, this court cannot grant such benefits which have not been granted by the reference court. He has also submitted that even considering the memo of appeal of each case, the claimants have not made any grievance about non grant of such benefits. He has, however, not disputed about the legal position of the amended provisions of the Act coming into force from 24th September, 1984 having retrospective effect of transitional period from 30th April, 1982 but he disputes and raises objection about the entitlement of the appellants for the said benefits.

We have considered the submissions made by the learned advocates for the respective parties. We have also considered the relevant provisions of the amendment made in the Land Acquisition Act, 1894 by Act 68 of 1984. In one group of first appeals relating to village Vithalpur, the reference court has, under its award dated 12.4.1985, awarded additional compensation to the claimants at the rate of Rs.4.40 ps. with interest at the rate of 6 per cent per annum. On the amount of additional compensation, solatium at the rate of 30 per cent has been granted and 9 per cent interest from the date of taking over the possession was also granted till the amount is paid or deposited. However, the reference court has not granted 12 per cent increase in the market price and 15 per cent interest. Except that group, in rest of the groups, the reference court has not granted

solatium at the rate of 30 per cent to the claimants; not granted 12 per cent increase and also not granted 15 per cent interest under proviso to amended section 28 of the Land Acquisition Act. Therefore, keeping in view this factual aspect of the matter, we have examined the legal question as to whether the appellants are entitled for such statutory benefits as per the amendment made in the Act of 1894 by way of amendment by Act 68 of 1984 or not. From this angle, we have examined each award made by the reference court. Learned advocate Mr. Amin has no objection or grievance in respect of the market price fixed by the reference court in respect of the land in question acquired from the claimants. Therefore, we have not to go into that aspect of the matter. Therefore, we have to examine the legal question as regards entitlement of the appellants for such statutory benefits as per the amended provisions of the Act. For that, relevant amendment made in the Land Acquisition Act is required to be considered. Section 30(2) of the Land Acquisition Act, is reproduced as under:

"30(2) The provisions of sub section (2) of section 23 and section 28 of the Principal Act, as amended by clause (b) of section 15 and section 18 of this Act, respectively, shall apply, and shall be deemed to have applied, also to and in relation to, any award made by the Collector or Court or to any order passed by the High Court or Supreme Court in appeal against any such award made under the provisions of the Principal Act after the 30th day of April, 1982 [the date of introduction of the Land Acquisition (Amendment) Bill, 1982, in the House of the People] and before the commencement of the Act."

Section 23(2) of the Act is reproduced as under:

"23(2) In addition to the market value of the land, as above provided, the Court shall in every case award a sum of thirty per centum on such market value, in consideration of the compulsory nature of acquisition."

Section 23 (1-A) of the Act with Explanation thereto is reproduced as under:

"23(1-A) In addition to the market value of the land, as above provided, the Court shall in every case award an amount calculated at the rate of twelve per centum per annum on such market value for the period commencing on and

from the date of the publication of the notification under sec.4, sub section (1), in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation.- In computing the period referred to in this sub section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded."

Section 28 of the Act is reproduced as under:

"28. Collector may be directed to pay interest on excess compensation.- If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct the Collector shall pay interest on such excess at the rate of nine per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court:

Provided that the award of the court may also direct that where such excess or any part thereof is paid into court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry."

In case of Union of India and another v. Raghubir Singh (dead) by LRs etc. reported in AIR 1989 SC 1933, the apex court has observed as under in para 31 and 32 of the judgment:

" There can be no doubt that the benefit of the enhanced solatium is intended by S. 30(2) of amendment Act in respect of an award made by the Collector between 30 April 1982 and 24 Sept.1984. Likewise the benefit of the enhanced solatium is extended by S. 30(2) to the case of an award made by the Court between 30 APril,1982 and 24

Sept. 1984, even though it be upon reference from an award made before 30 April, 1982. The dispute is about the meaning of the words 'or to any order passed by the High Court or Supreme Court an appeal against any such award' used in s. 30(2)? Are they limited to appeals against an award of the Collector or the Court made between 30 April, 1982 and 24 September, 1984, or do they include also appeals disposed of between 30 April, 1982 and 24 September, 1984 even though arising out of awards of the Collector or the Court made before 30 April, 1982. It is significant to note that the Parliament has identified the appeal before the High Court and the appeal before the Supreme Court by describing it as an appeal against 'any such award'. The words 'any such award' are intended to have deeper significance and in the context in which those words appear in S.30(2) it is clear that they are intended to refer to awards made by the Collector or Court between 30 April, 1982 and 24 September, 1984. In other words, S. 30(2) of the Amendment Act extends the benefit of the enhanced solatium to cases where the award by the collector or by the court is made between 30 April, 1982 and 24 Sept. 1984 or to appeals against such awards decided by the High Court and the Supreme Court where the decisions of the High Court or the Supreme Court are rendered before 24th September, 1984 or after that date. All that is material is that the award by the Collector or by the Court should have been made between 30 April, 1982 and 24 Sept. 1984. It cannot be said that the words any such award only mean the award made by the Collector or Court, and carry no greater limiting sense. No such words of description by way of identifying the appellate order of the High Court or of the Supreme Court were necessary. Plainly having regard to the existing hierarchical structure of forum contemplated in the parent Act those appellate orders could only be orders arising in appeal against the award of the Collector or of the Court.

In para 33 of the said judgment, it has been observed by the apex court as under:

"If Parliament had intended that the benefits of enhanced solatium should be extended to all pending proceedings it would have said so in

clear language. On the contrary, the terms in which S. 30(2) is couched indicate a limited extension of the benefit. The amendment Act has not been made generally retrospective with effect from any particular date, and such retrospectivity as appears is restricted to certain areas covered by the parent Act and must be discovered from the specific terms of the provisions concerned. Similarly it was never intended to define the scope of the enhanced solatium on the mere accident of disposal of a case in appeal on a certain date."

Relevant observations made by the apex court in case of Sunder versus Union of India, reported in 2001 (3) GLH 446 are reproduced as under:

"24. The proviso to section 34 makes the position further clear. The proviso says that 'if such compensation, over is not paid within one year from the date of taking possession of the land, interest shall stand escalated to 15 per cent per annum from the date of expiry of the said period of one year 'on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.' It is inconceivable that the solatium amount would attract only the escalated rate of interest from the expiry of one year and that there would be no interest on solatium during the preceding period. What the legislature intended was to make the aggregate amount under section 23 of the Act to reach hands of the person as and when 'the award is passed, at any rate as soon as he is deprived of the possession of his land. Any delay in making payment of the said sum should enable the party to have interest on the said sum until he receives the payment. Splitting up the compensation into different components for the purpose of payment of interest under section 34 was not in the contemplation of the legislature what that section was framed or enacted."

Para 26 of the said report reads as under:

"We think it useful to quote the reasoning advanced by the Chief Justice S.S. Sandhawalia of the Division Bench of the Punjab & Haryana High Court in State of Haryana versus Smt. Kailashwati and others (supra); 'once it is held

> as it inevitably must be that the solatium provided for under section 23 (2) of the Act forms an integral and statutory part of the compensation awarded to the land owner, then, from the plain terms of section 28 of the Act, it would be evident that the interest is payable on the compensation awarded and not merely on the market value of the land. Indeed, the language of section 28 does not even remotely refer to market value alone and in terms talks of compensation or the sum equivalent thereto. The interest awardable under section 28 therefore would include within its ambit both the market value and the statutory solatium. It would be thus evident that the provisions of section 28 in terms of warrant and authorize the grant of interest on solatium as well."

In view of the observations made by the apex court in aforesaid two decisions and also considering the provisions of the Amended Act, it is clear that these provisions are having effect from 30 April, 1982 and, therefore, it is clear that the statutory benefits which are available to the claimants have not been considered by the reference court. While awarding additional compensation in favour of the original claimants, it was the duty of the reference court to consider these amended provisions and effect thereof and ought to have given such benefits to the claimants. The reference court has not assigned any reason for not granting such benefits. Upon perusal of the award made by the reference court in each case, it appears that no such discussion has been made by the reference court. Learned Government Pleader Mr. Oza submits that once the reference court has not awarded such benefits on the basis of the amendment made in the Principal Act, then, this Court cannot grant such benefits because no such ground has been raised by the appellants in their memo of appeal. The ground raised by the appellants in their memo of appeal is to the effect that the appellants craves leave to amend, alter or delete or modify any of the foregoing grounds as and when required. At the time of hearing of these appeals, it has been submitted by Mr. Amin that the claimants are entitled to certain statutory benefits in light of the amended provisions of the Act. He has submitted that the appellants are entitled to have 30 per cent solatium as per section 23(2) of the Act; the appellants are also entitled for 12 per cent increase as per section 23(1-A) of the Act and 15 per cent interest on the total compensation awarded by the reference court as per the amended Act and, therefore, according to his submission,

even if the appellants have not raised any specific ground in the memo of appeal, it is open for this court to consider as to whether the the appellants are entitled for such legal benefits in view of the amendment made by Act 68 of 1984 or not and if the answer is in the affirmative that the claimants are entitled for such benefits, then, this Court can grant such benefits in these appeals itself without considering whether such contention has specifically been raised or not by the appellants in their memo of appeal and in view of this, the contention raised by Mr. Oza cannot be accepted. The contentions which have been raised by Mr. Oza, learned Government Pleader are mere technical contentions. In substance, such statutory benefits are available to the appellants as per amended provisions which has not been seriously disputed by the learned Government Pleader Mr. Oza. This Court can entertain such legal contentions orally raised by the appellant. Not to grant statutory benefits to the claimants which are available to them without any reason or justification is amounting to clear error committed by the reference court which can be corrected by this court even without raising such contentions by the appellant. This Court being the appellate court is having very wide powers for doing substantial justice between the parties.

Considering the submissions made by the learned advocates for the parties and also in light of the factual aspects of the matter as well as in light of the provisions made by Act 68 of 1984 in the Principal Act as well as the observations made by the apex court in aforesaid decisions, we are of the view that the claimants are entitled for such benefits in view of the amended provisions of the Act. In respect of the group of First Appeal No. 149 to 167 of 1987 and first appeal no. 282 to 289 of 1987 and 249 to 250 of 1987, the original claimants are entitled to 30 per cent solatium u/s. 23(2) in addition to the market value of the land, as above provided, the Court shall in every case award a sum 30 per cent of such market value considering the compulsory nature of acquisition. In the cases before this court, admittedly the acquisition of the land was compulsory and Mr. Oza has also not raised any dispute in that regard. Therefore, in these three group of first appeals, the claimants are entitled to 30 per cent solatium of the market value of the land. Similarly, as per section 23(1-A), in addition to the market value of the lands, the claimants are also entitled to 12 per cent increase on such market value for the period commencing on and from the date of publication of the notification under section 4(1) till the date of the award made by the

land acquisition officer. Therefore, in all first appeals of these four groups, the claimants are entitled to 12 per cent increase in addition to market value of the land from 10th June 1976 to 4th March, 1983 in first group of appeals; from 4th November, 1976 to 12th March, 1983 in the second group of appeals; from 25th October, 1979 to 6th September, 1983 in third group of appeals and from 3rd June, 1982 to 9th February, 1984 in the fourth group of appeals. Over and above that, the claimants are also entitled to 15 per cent interest as per the proviso to section 28 of the Act which provides that the award of the court may also direct that where such excess or any part thereof is paid into court after the date of expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Court before the date of such expiry. Therefore, appellants in these appeals are also entitled to 15 per cent interest from the date of possession of the land in question. In first group of appeals, date of possession is 2nd February, 1975. In second group of appeals, date of possession is 2nd April, 1973. In third group of appeals, date of possession is 23rd March, 1978 whereas in the fourth group of appeals, date of possession is 15th June, 1981. These are the dates on which the possession was taken from the claimants in each of the group. Therefore, the claimants are entitled to 15 per cent interest after completion of one year from the said date of possession till the amount has been deposited by the State Government before the concerned reference court.

It is made clear that the appellants in first appeal no. 2301 to 2326 of 1987 have already been granted solatium by the reference court at the rate of 30 per cent and, therefore, they are entitled only for the other benefits as directed by this court in this judgment. However, from the award, it is not becoming clear that they have been given such solatium at the rate of 30 per cent on the total amount of compensation or not. Therefore, it is made clear that they are entitled to 30 per cent solatium on the total amount of compensation.

Therefore, according to our opinion, appellants in each of these appeals are entitled to these statutory benefits which have not been granted by the reference court and accordingly, these appeals are allowed. Award made by the reference court is modified accordingly. It is directed to the respondents to pay the said amount of

30 per cent solatium to the claimants on the total amount of compensation and 15 per cent interest on the total amount of compensation including the amount of solatium and 12 per cent increase in addition to the market value of the land within the period of three months from the date of production of the certified copy of this judgment. Registry is directed to prepare immediately modified award. Registry is also directed to keep one copy of this judgment in each of the appeals. There shall be no order as to costs.

23.10.2002. (Kshitij R.Vyas,J.)

(H.K. Rathod,J.)

Vyas